

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of trademark application Ser. No.: 78/559,662
For the mark: **COLORBOX**
Published in the Official Gazette on: 11/01/2005

Clearsnap, Inc.)
509 30th Street)
Anacortes, WA 98221)
Opposer,)

v.)

Gamillah, Inc.)
7760 France Avenue S., Ste. 1100)
Minneapolis, MN 55435)
Applicant.)

Attorney's Ref.: M214972

12/07/2005 GTHOMAS2 00000028 78559662

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900.00 OP

NOTICE OF OPPOSITION

This Notice of Opposition is submitted in connection with the application for registration of the trademark **COLORBOX**, Application Ser. No. 78/559,662, filed February 3, 2005 in International Classes 003, 004, and 009, by Gamillah, Inc., 7760 France Avenue So., Suite 1100, Minneapolis, MN 55435 (hereinafter "the Applicant"), which was published in the Official Gazette of the Patent and Trademark Office on November 1, 2005.

Clearsnap, Inc., a corporation formed under the laws of the State of Washington, whose Post Office address is 509 30th Street, Anacortes, WA 98221 (hereinafter "the Opposer"), believes that it would be damaged by the registration of the mark shown in the above-identified application, and hereby opposes such registration.



The grounds for the present Opposition are as follows:

1. The Opposer, for more than **15** years, has been and is engaged in the conduct of retail services and the sale of a wide variety of goods/services in numerous International Classes using marks similar to the Applicant's mark.
2. The Opposer is the owner of U.S. Trademark Reg. Nos. 1,639,721 registered April 2, 1991, and 2,394,642, registered October 17, 2000, for use of the mark **COLOR BOX** in connection with a wide variety of goods including goods in International Classes 009, 016, and 025. The 1,639,721 and 2,394,642 registrations are in full force and effect, and the Opposer is using the mark **COLOR BOX** in commerce in connection with the goods recited therein.
3. The Opposer, for more than **15** years, has incorporated the term "color box" as the dominant and salient portion of numerous trademarks and has thus established common law rights in and to the mark **COLOR BOX**.
4. The Opposer further asserts that its mark **COLOR BOX** has become famous.
5. The use by the Applicant of **COLORBOX** on or in connection with the goods identified in application Ser. No. 78/559,662 is likely to cause confusion and mistake on the part of the purchasing public as to the source and origin of the goods and/or services aforementioned, and is likely to cause deception of the public concerning the identity of the company responsible for the quality and dependability of such products when sold by the Applicant under the trademark **COLORBOX**.
6. The use of and marking by the Applicant of **COLORBOX** in connection the goods identified in application Ser. No. 78/559,662 is likely to cause diversion of, and encroachment upon, the Opposer's goodwill and rights established in the Opposer's trademark **COLOR BOX** and to cause injury to, and diminishment of, the Opposer's goodwill and rights in and to the mark **COLOR BOX**.

7. The use of and marketing by the Applicant of **COLORBOX** in connection with the goods identified in application Ser. No. 78/559,662 is likely to cause confusion with the Opposer's use of that mark based on the widespread recognition of Opposer's experience and expertise in conducting business under the mark **COLOR BOX**.

8. For the above reasons, the Opposer believes that it will be damaged by the registration as applied for by the Applicant and that the application should be denied.

9. The Opposer hereby appoints Michael R. Schacht, of the firm of Schacht Law Office, Inc. whose mailing address is 2801 Meridian Street, Suite 202, Bellingham, Washington 98225, as its attorney in all matters and proceedings in connection with this Opposition and to transact all business in connection therewith.

WHEREFORE, the Opposer requests that Application Ser. No. 78/559,662 be rejected and that the mark therein sought for registration in Classes 003, 004, and 009 be denied and refused. Enclosed is a check in the amount of \$900 to cover the statutory fee (\$300) for each class. Please charge any fee deficiency to Deposit Account No. 502099.

This Notice of Opposition is being submitted in duplicate.

Signed at Bellingham, County of Whatcom, State of Washington this 1st day
December, 2005.

CLEARSNAP, INC.



By: Michael R. Schacht, Reg. No. 33,550

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Attorney for Opposer

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Clearsnap, Inc. v. Gamillah, Inc.
Opposition re SN 78/559,662

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.10

I hereby certify that a Notice of Opposition (2 copies), check for \$900, and postcard is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. §1.10 on December 1, 2005, **Express Mail Certificate No. EL993505431US** and addressed to Commissioner for Trademarks, Box TTAB Fee, P.O. Box 1451, Alexandria, VA 22313-1451.



Susie Hubka